Secrt. 11-27- 45,004- 14-11-29.

Law (4l) (1931) Department.

M1 SERIES.

G.O. No. 638

DATED 12.2-1931

[Despatch Abstract.]

Legal Assistance -

Fees to pleader - conduct of a prosecution on behalf of the Central Nazir District Court South Kanara - Sanctioned.

C.F. 30.

LAW (GENERAL) DEPARTMENT Jud: 378 / 5131

Received ..... 19 *Registered* 26 DEC 1930 19

GOVERNMENT OF MADRAS LAW L

Subject.

8017/6131

Vakil's fee - conducting prosecution - complaint by the Central Nazir - forcible taking away of cattle after attachment.

ENCLOSURES.
No. .....
.....
Spare copies .....

No. Ref. C1-6833-30.

Station Mangalore, *Dated the* 24th December 1930. ~~19~~

From (Name) G. W. Wells, Esquire, M.A., I.C.S.,
(Designation) Dt. Magistrate of South Kanara.

To The Secretary to the Government of Madras,
Law (General) Department,
Madras.

Sir,

As desired by the District Judge, South Kanara, I authorized the Central Nazir of the District Court, South Kanara to engage a pleader, approved by the Tahsildar of Mangalore Taluk, to conduct prosecution in C.C.792/30 on the file of the Stationary Sub Magistrate, Mangalore, a complaint filed by the Central Nazir under the orders of the District Judge in O.P.No.26/1930 for the forcible taking away of attached cattle.

2. The Sub Magistrate who tried the case submitted it to the Sub Divisional Magistrate, Mangalore for action under Section 562 C.P.C. as he had no powers. The Sub

Divisional Magistrate considered it expedient that the accused should be released on probation for good conduct and dealt with them under Section 562 Cr.P.C.

3. The Vakil who was engaged at a rate of fees not exceeding Rs.20/- per day or Rs.100/- for the whole case, has now claimed a fee of Rs.100/-. He appeared in connection with this case before the Stationary Sub Magistrate, Mangalore on 12th August 1930, 3rd September 1930, 20th September 1930 and 25th September 1930 and before the Sub Divisional Magistrate, Mangalore on 7th October 1930 at Mangalore and on 29th October 1930 in camp. Of these days, on 12th August 1930 and 7th October 1930, no work was done, as an application under Section 526 (8) was filed on the former date and as one of the accused was sick on the latter date. On 3rd September 1930, 4 P.Ws. were examined; on 20th September 1930 2 P.Ws. were examined and adjourned for defence; on 25th September 1930, 4 D.Ws. and 1 C.W. were examined and on 29th October 1930, the case was argued before the Sub Divisional Magistrate. As there was work on 4 days and as the Vakil appeared in Court and spent a portion of the day on 12th August 1930 and 7th October 1930 for the case and as he had to go out in camp on 29th October 1930, I think he is entitled to the fee of Rs.100/- claimed.

4. The judgment shows that the charge against the accused has been fully proved and that there was no fault on the part of the Amin. I therefore recommend that the full amount of the Vakil's fee may be borne by the State.

5. The Vakil's receipt for the fee and a copy of the Sub Divisional Magistrate's judgment in the case are enclosed.

Your obedient servant,

For Dt. Magistrate.

24/12/30

M.D'S.24/12.

In the Court of the Sub-Divisional I Class Magistrate, Mangalore Division.

Judgment in Cal.Case No. 136 /1930 on the file of the Sub-Divisional I Cl.Magistrate, Mangalore.

Saher —day, the 1st day of November 1930.

Present: Sri. R. Ry. R. Sivaramaiyyar Asst B.A.

Read today up to 6.11.30. (Please see date on the last page)

Complainant. ... ... Sri. M. Appa Pai.
Central Excise Dept. Crown.
By advocate Mr. K. Sitarama Pai for vakil
Sri. M. Ganapa Pai.

Accused ... ... 1. Pedru aranha.
2. Sowrina Bai
3. Sraphina Bai.
By advocate Mr N. N. Sivarama.

Offence. ... ... Sec: 183 & 186 I.P.C.

Finding. ... ... Guilty.

Sentence. ... ... Released on probation of good conduct under section 562 (1) C.P.C.

Serial Number	Description of accused.					
	Name.	Father's name.	Caste.	Occupation.	Residence.	Age.
1.	Pedru aranha.	Dooje aranha.	R.C. Christian.	Cultivation	Bondhilla	24
2.	Sabrina Bai.	Pathu Fernandez.	Do.	Do.	Do	50
3.	Sraphina Bai.	Dooje aranha.	Do	Do	Moosapoor.	20

Date of: Occurrence.	Complaint.	Apprehension.	Release on bail.	Commencement of trial.	Close of trial.
12.1.30	25.6.30 Recd under Section 562 C.P.C. on 29.9.30	Before this court on 29.9.30	29.9.30	29.x.30	1.11.30

136/30.

5

Judgment.

This case was enquired into by the Stationary Sub-Magis-trate, Mangalore and the proceedings have been submitted to me under Section 562 Cr.P.C. The charge against the accused is under Sections 183 and 186 I.P.C. A-1 and A-3 are the son and daughter of A-2. There was a decree against D.W.-4 another son of A-2 and in execution of that decree there was an attachment of 5 heads of cattle by the Court Amin P.W.-4. The case is that as the cattle were being taken to the Court house soon after the attachment, the several accused forcibly cut the ropes of the cat-tle and drove them away.

2. The witnesses who proved the attachment were P.W.-3 the decree holder, P.W.-4, the Court Amin, P.W.-5, the Village potel and P.W.-6 a disinterested witness who was present at the time. The resistence to the taking of the cattle and the obstruc-tion to the Amin's discharge of his function were proved by P.Ws. 3, 4 and 6. The defence plea is that the whole case is a concoc-tion, that there was no attachment and that the accused had no cattle. The evidence of D.W.-1, a trader, who lives about 3/4 of a mile from the dwelling house of the accused is that the judgment-debtor D.W.-4 was not living with the accused and that A-3 also was living in another house closeby. The evidence of D.W.-2 is that the several accused had no cattle. D.W.-3 is a wo-man who had allowed A-1 and A-2 to live in a house which had been leased to her by P.W.-3. According to her, A-1 and A-2 had no cattle and the judgment-debtor D.W.-4 did not live with them. D.W.-4 is the judgment-debtor who denies knowledge of the suit, decree and execution proceedings against him. He is a son of A-2.

3. I am unable to accept the defence plea as probable. If the whole of the prosecution is a concoction, it is not clear why the judgment-debtor himself could not have been included as one of the accused. A-2 is an old woman of about 50 years and A-3 her -

daughter is about 20 years. [illegible] of the accused is about 24 years. D.W.-4, the [illegible] about 36. But according to the prosecution D.W.-4 should not be in this case. Apart from D.W.-4 the court finds that a public servant, the other witnesses including the doctor appear to be respectable witnesses and I have no reason to doubt their evidence on material particulars. I have therefore no hesitation in holding that the [illegible] attachment of cattle and that the three accused obstructed the said [illegible] resistance by releasing the cattle tied and [illegible] them to the Court house. [illegible] of offences under sections 143 and 148 I.P.C. [illegible] illiterate persons and it seems to be [illegible] that they were not aware of their criminal liability for their actions. Two of the co-accused are women and no previous conviction is proved against any one of the three accused. The offence appears to have been committed in a moment of excitement when they saw their cattle being taken away from their possession. I consider it expedient that the offenders should be released on probation of good behaviour conduct. I therefore release them on each of their entering into a bond for Rs 50/- to appear and receive sentence when called upon during a period of one year and in the meantime to keep the peace and be of good behaviour.

Sd/ K. Subrahmanya Ayyar,
1-11-1960.
Sub-Divisional Magistrate.

Appendix:

Witnesses examined for the prosecution:

1. Mr. M. Appa Prabhu (Central Nazir). 2. P. [illegible] (Executing peshkar clerk). 3. Hundi Madhava Kamath. 4. K. Subbi. (Main). 5. Anthappa Shetty (potel). 6. Mukunda Kamath. COURT: 1. Dr. K. V. Chacko.

For the Defence:

1. Narayana Prabhu. 2. Moraga Shetty. 3. Paschima Bai.
4. Nooki Pranha.

Exhibits filed for the prosecution:

7

A. 8-1-1930. Attachment warrant.

A-1. 15-1-1930. Return of P.W.-4 on Exhibit A.

B. 12-1-1930. Japti list.

C. 12-1-1930. Report of P.W.-4 addressed to the Police Station.

D. 12-1-1930. Report of P.W.-5.

For the Defence: Nil.

Material Objects: Nil.

Sd/ R. Subrahmania Ayyar,
1-11-1930.
Sub-Divisional Magistrate.

/True copy/

Subrahmaniam
1-11-30

Sub-Divisional Magistrate.

M.E.S./1-11.
Compd.

To the ~~District Magistrate, Coimbatore.~~ 1.11.30 ✓

Sd/
Daniel Dass of Mudalur with ref 6: Li this
report dtd 11.X.30

8 Law (Genl) Dept.

4/10.1

Fd
Rm
1971

10.1 37/B/31 Letter/Ref No. 37 B-1 Dt. 9.1.31

To the Hon'ble the Chief Justice,
High Court of Judicature
at Madras

(Copies of MM-2 CF & MM-7 CF enclosed) (With enclosures)

Hon'ble Sir,

I am directed to forward a copy of the letter from the Dist. Judge Canara Dist No. C-1-6P33-30, dt. the 24.12.30 together with the enclosures thereto and to request that the Hon'ble the Judges will be pleased to offer their remarks on the recommendations of the Dist. Judge.

MM-2 CF

MM-7 CF

KR
8.1.31

9/1

BBR
9.1.31

Sectt. II-5 (a)

Land (Jud.) DEPARTMENT.

	Date.	Initials
When received for Fair-copying		
When copied ..		
When examined ..	12-2-31	
When signed ..		
When despatched ..		

Legal Assistance

Fee to Pleader. Conducting prosecution on behalf of the Central Nazir District Court, South Kanara - Sanctioned.

READ AGAIN G.O. No. ....., dated ..... 19 .

" " " " " " ..... 19 .

READ ALSO :—

MM-2 CF No. 373/31 From the Dist. Court, South Kanara, No. C-1-6833/30 dated 24-12-31 19

8 CF " " To the Hon'ble Chief Secy. Letter/Rep. No. 373-1,9 9-1-32 19

MG-10 CF 487B/31. " " From the Registrar, High Court, Bombay No. 161-13-2-31 Dy. 28-1-32

ORDER.

No. 638, dated 12-2-1932.

MG

The Government sanction an expenditure of Rs. 100 (Rupees one Hundred only) as pleader's fee in connection with the prosecution on behalf of the Central Nazir, District Court, South Kanara in C.C. No. 792 of 1930 on the file of the Stg. Sub-magistrate, Mangalore.

2 The expenditure will be debited to "24-6 — Administration of Justice - Law Courts - Supplies &

and Services-Votes- Miscellaneous.
Monthly fee to Pleaders
under Govt Service".

5-2-31

5-2-31

To the Dy Secy Law Branch. With
Statement showing arrears of P.S.C.
To the Asst Govt Counsel Finance Dn.
To the Hon'ble C.J. with Cl.

Note Finance no. for acceptance
before issue.

5-2-31.

(Finance no)

Law file no 378-2.
7221

Finance R

The draft order may be
accepted and the Case returned
to Law Dept.

10-2-31.

10/2/31
Law (Judl)

5023

L-[illegible]32B
11/2/35-1
9 in 40 5023
10.2.3

Issue
11/2